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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION ONE

In re NICOLAS A., a Person Coming  
Under the Juvenile Court Law.

B239422  
(Los Angeles County  
Super. Ct. No. CK90570)

LOS ANGELES COUNTY  
DEPARTMENT OF CHILDREN AND  
FAMILY SERVICES,

Plaintiff and Respondent,

v.

ROSALIE A. et al.,

Defendants and Appellants.

APPEALS from orders of the Superior Court of Los Angeles County. Rudolph A. Diaz, Judge. Affirmed with directions.

Nancy Rabin Brucker, under appointment by the Court of Appeal, for Defendant and Appellant Rosalie A.

Jack A. Love, under appointment by the Court of Appeal, for Defendant and Appellant Jose A.

John F. Krattli, County Counsel, James M. Owens, Assistant County Counsel, and Peter Ferrera, Senior Deputy County Counsel, for Plaintiff and Respondent.

Rosalie A. (Mother) and Jose A. (Father) appeal from the juvenile court's November 16, 2011 and January 30, 2012 jurisdictional findings and dispositional orders. The court adjudged minor Nicolas A. a dependent of the court pursuant to Welfare and Institutions Code section 300, subdivisions (a) (serious physical harm) and (b) (failure to protect) against Mother and pursuant to section 300, subdivision (b) against Father.<sup>1</sup> Mother and Father challenge the sufficiency of the evidence to support the juvenile court's jurisdictional findings and dispositional orders as to Nicolas. Nicolas's half sisters Elisa R. and Laura R. are not subjects of this appeal because Mother's notices of appeal pertain only to Nicolas. We conclude that substantial evidence does not support the jurisdictional finding that Elisa and Laura engaged in violent altercations. But substantial evidence supports the jurisdictional findings as to the other allegations under section 300, subdivisions (a) and (b). We affirm the jurisdictional findings with directions to the court and affirm the dispositional orders.

### **BACKGROUND**

On November 1, 2011, the Los Angeles County Department of Children and Family Services (DCFS) filed a petition pursuant to section 300, subdivisions (a), (b), and (j) on behalf of Elisa (born in 1997), Laura (born in 2002), and Nicolas (born in 2008).

The following allegations of the petition were sustained with respect to Elisa, Laura, and Nicolas against Mother. Paragraph a-1 of the petition alleged under section 300, subdivision (a) and paragraph b-1 of the petition alleged under section 300, subdivision (b) that Elisa, Laura, Mother, and Mother's boyfriend Andrew Z. had violent altercations in the presence of Nicolas, and on October 3, 2011, Nicolas sustained a bloody nose as a result of intervening when Andrew pushed Mother onto the bed and restrained her. Paragraph b-2 of the petition alleged under section 300, subdivision (b) that in October 2011, and on prior occasions, Elisa, Laura, and Andrew struck Nicolas in the stomach with a belt and pushed him down the stairs. Paragraph b-3 of the petition alleged under section 300, subdivision (b) that Mother allowed Andrew to use alcohol in

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<sup>1</sup> Undesignated statutory references are to the Welfare and Institutions Code.

the home. Allegations were sustained with respect to Elisa and Laura against Mother under section 300, subdivision (j) (abuse of sibling).

The following allegations of a section 342 petition were sustained with respect to Nicolas against Father. Paragraph b-2 of the petition alleged under section 300, subdivision (b) that Mother and Father have a history of engaging in violent altercations, including Father pushing Mother in the presence of Nicolas at the home. Paragraph b-1 of the petition alleged under section 300, subdivision (b) that Father has a 15-year history of substance abuse, including cocaine and marijuana, and that on prior occasions Father was under the influence of illicit drugs while caring for Nicolas. Paragraph a-1 of the petition, alleged under section 300, subdivision (a), was dismissed.

The events leading up to the filing of the petition were as follows. On October 3, 2011, police responded to a report that Andrew was at Mother's home with a gun. Mother was standing outside her apartment on the sidewalk with Nicolas, who had dried blood around his nose. Mother said that she was afraid to go back inside the apartment because Andrew was drunk and belligerent. She said Andrew had been verbally abusive and had pinned her down on the bed. Mother reported that Nicolas had climbed onto the bed and had tried to punch Andrew while Mother bit Andrew's wrist. Mother later noticed that Nicolas had a bloody nose. The officers reported that Mother and Andrew were both under the influence and arrested Andrew. The police noted that a television in the apartment had been thrown on the floor. Mother told police that she would obtain a restraining order against Andrew.

On October 5, 2011, DCFS interviewed Mother, who reported that Andrew had not previously committed an act of domestic violence against her. She told DCFS that after Andrew threw her onto the bed, Nicolas began hitting Andrew in the face. Upon leaving the apartment, she noticed that Nicolas had a bloody nose, but she said that "Nicolas gets bloody noses all the time." She admitted that she had been arrested for driving under the influence earlier in the year and that she was driving without a license because she had not yet completed all her required classes. She denied that she had been drinking that night. She also stated that her daughters Laura and Elisa reside with their

father, Elias R. Mother stated that she had moved out and was living with her cousin. Mother reported that she had no intention of moving back in with Andrew, who she believed needed to take “classes.” She agreed to take Nicolas for a medical examination.

On October 27, 2011, DCFS investigated a referral by a caregiver, Karen Espinoza, who had observed a bruise on Nicolas’s rib cage. Espinoza said Nicolas told her Andrew had hit him with a belt and pushed him down the stairs because Nicolas “was trying to find the refrigerator.” Nicolas told Espinoza that Andrew had punched a television. Espinoza reported that Nicolas was bright, articulate, smart, and “does not tell stories and tends to lie very little.” Espinoza noticed that in the past couple of weeks Nicolas had become more aggressive toward other children.

On October 27, 2011, DCFS interviewed Mother, who denied that Andrew had hit any of her children and claimed that the marks on Nicolas’s body were drawn on him with a marker by Laura. Mother said that she had moved back in with Andrew. She denied that Andrew needed to take any anger management or substance abuse classes and became upset upon being reminded that she had failed to take Nicolas for a medical examination. Later, on November 7, 2011, Mother denied that she had a history of physical violence with Andrew, although she admitted that Andrew had held her down on the bed in a “wrestling move” after she had argued with him about being drunk. She also refused to restrict Andrew’s access to “the children,” stating, “We all live together.” Nicolas was detained from Mother.

Nicolas was examined by a doctor, who removed the marks on his rib cage with an alcohol wipe. Nicolas told the doctor that Andrew had hit him with a belt and that Andrew hits Mother. Nicolas told DCFS that when he was “climbing the refrigerator,” Andrew had hit him with a belt. He was afraid of Andrew because he fights with Mother and that’s how “he got a bloody nose.” He stated that he hit Andrew when Andrew was hitting Mother. Later, he told DCFS that he felt mad and cried when Andrew and Mother fought. He stated they fight “all the time, like punching and hitting.” He said Andrew punched him in his “belly” when he got mad and demonstrated by swinging his arms with a closed fist. He said that Andrew drank “a lot” of beer.

Laura told DCFS that she had marked Nicolas's body with a marker when they were playing. She reported witnessing Mother and Andrew engage in verbal altercations over Andrew's drinking but had never seen them hit each other and denied being hit by either Andrew or Mother. Laura was afraid when Mother and Andrew argued. Later, Laura told DCFS that Andrew and Mother fought by throwing things at each other. Once, Mother threw a glass cup at Andrew, which cut his face. Another time, she threw a money jar, which broke. Nicolas picked up the coins and put them in his pocket.

Elisa told DCFS that her aunt told her Nicolas had sustained a bloody nose when Mother accidentally hit Nicolas after Andrew pushed her onto the bed. She denied that Nicolas had ever been hit by Andrew. She stated that in the past, after a fight, Mother left Andrew for a few days but always went back to him. Elisa said that Nicolas had told her that Andrew accidentally hit him and he got a bloody nose. She also stated that Andrew gets drunk at family gatherings.

On November 1, 2011, DCFS filed the section 300 petition on behalf of Elisa, Laura, and Nicolas. On November 15, 2011, the juvenile court adjudicated the section 300 petition. Mother testified that Laura and Nicolas had lived with her prior to DCFS involvement and that Elisa, who lived with Elias, visited every other weekend. Mother, Laura, and Nicolas had lived with Andrew from December 2010. Mother denied that she and Andrew had a history of violent physical altercations. On the evening of October 3, 2011, Laura was visiting Elias. That evening, Andrew, who was inebriated, had been cursing at her. When she tried to leave, Andrew "tackled" her onto the bed and Nicolas got hit. Nicolas was hitting Andrew in the face, saying "Let go of my mom." Mother looked up and noticed that Nicolas had been injured. Mother stated that she did not know how Nicolas sustained his bloody nose, saying, "I guess my son was on his way over. And he got hit." She denied that she and Andrew had ever thrown anything at each other, but admitted that they had verbal arguments. She also denied that Andrew had ever hit Nicolas. She claimed that Andrew had stopped drinking after October 3, 2011.

Nicolas's counsel requested the juvenile court to sustain the petition because there was evidence that Nicolas had sustained an injury during an incident of domestic

violence; Mother and Andrew had thrown things at each other, causing injury; Nicolas had consistently stated that Andrew had hit him with a closed fist; both Mother and Father had alcohol issues; and Mother was aware that Andrew abused alcohol and was intoxicated in the family home. DCFS requested that the court sustain all the counts as pleaded. Mother's counsel requested that the juvenile court amend the allegations of paragraph b-1 to conform to proof to state that Mother and Andrew "did have a domestic violence altercation on [10/3/2011], [Nicolas] was accidentally injured, and that that places [Nicolas] at risk." Mother's counsel requested that the other allegations of the petition be dismissed.

The juvenile court sustained the allegations of the petition as pleaded, stating that Nicolas was credible and that he "was injured to the point where he was hit in his nose and he was bleeding, and he may not have been the intended victim, but it was certainly the result of an act of violence between Mother and [Andrew]." The court declared the minors to be dependents of the court and removed them from the care of Mother.

On January 9, 2012, DCFS filed the section 342 petition on behalf of Nicolas against Father.

DCFS reported that Father had drug-related arrests in 2001, 2005, 2008, and 2010. Father pleaded guilty in November 2010 to possession of a controlled substance; evading a peace officer; and violation of a protective order. He was sentenced to two years in state prison and later paroled. Also, in November 2008, Mother falsely had reported her vehicle stolen after Father came home, argued with her, and left with her vehicle, ATM card, and two-month-old Nicolas. Father was then arrested after being stopped for driving Mother's vehicle in an area known for drug activity. Father had dropped Nicolas off at a friend's house prior to being arrested. The Department of Corrections reported that Father "should be considered a threat to the community and his family as a result of his drug use," and recommended that his parole be revoked.

Father told DCFS that he was unaware of the current dependency proceeding; Mother had not allowed him to see Nicolas since November 2010; there was a restraining order against him in effect; and he was waiting to get visitation with Nicolas through the

divorce proceedings. Father stated that in the past he had used marijuana and cocaine every few months and on weekends, but denied using it continuously. He reported being arrested for cocaine possession in July 2010. Father denied current drug use and agreed to an on-demand drug test on December 14, 2011, but stated he was ““worried”” about the test. Father subsequently did not show for the scheduled test. Father told DCFS that he had been in a relationship from July 2010 with Alma A., with whom he had an eight-month-old child, and that she was supportive of Father’s wish to have custody of Nicolas. Alma told DCFS that she was having a lot of problems with Father and “they weren’t involved anymore,” he is ““always mad,”” he only works intermittently, he does not help her in the home, and that she had not discussed Nicolas at length with Father. Alma was aware that Father had used drugs in the past, but did not believe he was currently using drugs.

Mother told DCFS her divorce with Father is pending. Mother told DCFS that Father “was seriously addicted to cocaine” and continued to go on and off drugs; Mother had obtained a restraining order against him because he had pushed, physically assaulted, and stalked her while he was under the influence; and she did not know his whereabouts, although they communicated with regard to “the children.” She stated that in the past, Father had started two drug rehabilitation programs, but had not completed them. When asked if Nicolas had ever been exposed to Father’s drug use and domestic violence, she “indicated that he was too young.” Mother reported that she came home once to find that Father had taken Nicolas. She reported her car stolen in order to find him. She said that Father ““admittedly took [Nicolas] to a drug house.”” She also stated that Father was taking Vicodin and she was “concerned” because Nicolas was unaware that Father was his parent. After DCFS contacted Father, Mother had received two e-mails from him. The subject on one was “no good bitch,” and stated, “you stupid bitch how could you get our son taken away.” The other stated, “how could you lose my son you stupid fucken [sic] bitch and for your info im [sic] with no one..get your facts straight.”

At the hearing on January 30, 2012, Father testified that there was a restraining order preventing him from contacting Mother. Nicolas’s counsel requested that the

juvenile court sustain the section 342 petition, arguing that Father admitted to having a drug problem and that his statement that he was not currently using was not credible, given his significant history of drug use. Mother's counsel also requested that the petition be sustained. Father's counsel requested that the petition be dismissed. Among other things, Father's counsel argued that there was no nexus between current use and harm to Nicolas, whom he had not seen from November 2010. DCFS stated it was willing to dismiss the allegation under section 300, subdivision (a), but expressed its concern that Father failed to drug test. The court dismissed the allegation under section 300, subdivision (a), and sustained the remaining allegations against Father.

The juvenile court ordered Mother to participate in a domestic violence support group; parenting classes; and individual counseling to address case issues, including alcohol abuse, healthy relationships with men, and child protection. Father was ordered to participate in parenting classes; individual counseling to address case issues, including alcohol abuse, healthy relationships with women, and child protection; and a drug and alcohol program. Both were ordered monitored visits.

Mother's and Father's appeals followed.

## **DISCUSSION**

### **A. Standard of review**

The juvenile court's jurisdictional finding that the minor is a person described in section 300 must be supported by a preponderance of the evidence. (§ 355; Cal. Rules of Court, rule 5.684(f).) “““When the sufficiency of the evidence to support a finding or order is challenged on appeal, the reviewing court must determine if there is any substantial evidence, that is, evidence which is reasonable, credible, and of solid value to support the conclusion of the trier of fact. [Citation.] In making this determination, all conflicts [in the evidence and in reasonable inferences from the evidence] are to be resolved in favor of the prevailing party, and issues of fact and credibility are questions for the trier of fact. [Citation.]”” [Citation.] While substantial evidence may consist of inferences, such inferences must rest on the evidence; inferences that are the result of



speculation or conjecture cannot support a finding. [Citation.]” (*In re Precious D.* (2010) 189 Cal.App.4th 1251, 1258–1259.)

**B. Substantial evidence supports the juvenile court’s jurisdictional findings with respect to the allegations under section 300, subdivision (a) against Mother**

Mother contends the evidence was insufficient to support the juvenile court’s jurisdictional findings under section 300, subdivisions (a). We disagree.

Pursuant to section 300, subdivision (a), a child may be adjudged to be a dependent child of the court if he or she “has suffered, or there is a substantial risk that the child will suffer, serious physical harm inflicted nonaccidentally upon the child by the child’s parent or guardian. For the purposes of this subdivision, a court may find there is a substantial risk of serious future injury based on the manner in which a less serious injury was inflicted, a history of repeated inflictions of injuries on the child or the child’s siblings, or a combination of these and other actions by the parent or guardian which indicate the child is at risk of serious physical harm. . . .”

The section 300, subdivision (a) allegation alleged that Elisa, Laura, Mother, and Mother’s boyfriend Andrew Z. had violent altercations in the presence of Nicolas and on October 3, 2011, Nicolas sustained a bloody nose as a result of intervening when Andrew pushed Mother onto the bed and restrained her. We conclude that substantial evidence supports the juvenile court’s finding adjudging Nicolas a dependent under section 300, subdivision (a). On October 3, 2011, Nicolas was injured when he tried to intervene as Andrew wrestled Mother onto the bed. While Mother bit Andrew on the wrist, Nicolas punched Andrew in the face. As a result of the violent altercation, Nicolas was injured. Although the court noted that Nicolas may not have been the intended victim, we may look to “the manner in which a less serious injury was inflicted, a history of repeated inflictions of injuries on the child or the child’s siblings, or a combination of these and other actions by the parent or guardian which indicate the child is at risk of serious physical harm. . . .” (§ 300, subd. (a).) The record shows a pattern of domestic violence that indicated Nicolas is at risk of serious physical harm, including an occasion when Mother threw a glass cup at Andrew, cutting him. On another occasion, Mother threw a

money jar, which shattered, and Nicolas picked up the coins and put them in his pocket. And Andrew became belligerent and angry when drunk, yet Mother continued to expose Nicolas to him. Also, Nicolas, a child described as honest, stated that he was afraid of Andrew and consistently stated that Andrew hit him with a belt when he tried to get something from the refrigerator. There was no evidence that Elisa and Laura engaged in violent altercations in the presence of Nicolas, but there was evidence that Laura and Elisa were present during the violent altercations between Mother and Andrew.

To the extent that Mother requests us to reweigh the evidence, her argument must fail. (*In re Matthew S.* (1988) 201 Cal.App.3d 315, 321 [“We do not reweigh the evidence or exercise independent judgment, but merely determine if there are sufficient facts to support the findings of the trial court.”].)

We conclude that substantial evidence does not support the juvenile court’s finding that Elisa and Laura engaged in violent altercations in the presence of Nicolas. But substantial evidence supports the court’s finding of jurisdiction under the other allegations of section 300, subdivision (a). We order the juvenile court to modify the sustained allegations to state that Laura and Elisa were present during the violent altercations between Mother and Andrew.

**C. Substantial evidence supported the juvenile court’s jurisdictional finding with respect to the allegations under section 300, subdivision (b) against Mother**

Mother contends the evidence was insufficient to support the juvenile court’s jurisdictional findings under section 300, subdivisions (b). We disagree.

Section 300, subdivision (b) provides a basis for juvenile court jurisdiction if “[t]he child has suffered, or there is a substantial risk that the child will suffer, serious physical harm or illness, as a result of the failure or inability of his or her parent or guardian to adequately supervise or protect the child, or the willful or negligent failure of the child’s parent or guardian to adequately supervise or protect the child from the conduct of the custodian with whom the child has been left . . . .”

“A jurisdictional finding under section 300, subdivision (b) requires:  
“(1) neglectful conduct by the parent in one of the specified forms; (2) causation; and

(3) ‘serious physical harm or illness’ to the child, or a ‘substantial risk’ of such harm or illness.” [Citation.]’ [Citations.] The third element ‘effectively requires a showing that at the time of the jurisdictional hearing the child is at substantial risk of serious physical harm in the future (e.g., evidence showing a substantial risk that past physical harm will reoccur).’ [Citation.]” (*In re James R.* (2009) 176 Cal.App.4th 129, 135.)

Paragraph b-1 of the petition alleged under section 300, subdivision (b) that Elisa, Laura, Mother, and Mother’s boyfriend Andrew Z. had violent altercations in the presence of Nicolas; paragraph b-2 of the petition alleged under section 300, subdivision (b) that in October 2011, and on prior occasions, Elisa, Laura, and Andrew struck Nicolas in the stomach with a belt and pushed him down the stairs; and paragraph b-3 of the petition alleged under section 300, subdivision (b) that Mother allowed Andrew to use alcohol in the home.

We conclude that substantial evidence supports the juvenile court’s findings adjudging Nicolas a dependent under section 300, subdivision (b). We note that at the jurisdictional hearing, Mother’s counsel conceded jurisdiction under the allegations of paragraph b-1, section 300, subdivision (b) when she requested that the juvenile court amend the allegations to conform to proof to state that Mother and Andrew “did have a domestic violence altercation on [10/3/2011], [Nicolas] was accidentally injured, and that that places [Nicolas] at risk.” The evidence supports the court’s findings as to the remaining allegations. Andrew and Mother had a history of domestic violence, arising from Andrew’s drinking problem. Mother argued with Andrew about his drinking and threw objects at Andrew, including a glass cup that cut his face and a money jar that broke. And after Mother left the home because she was afraid of Andrew and acknowledged that he needed treatment, she and Nicolas had moved back in with Andrew. She denied Andrew’s alcohol use and that he needed treatment. Laura, Elisa, and Nicolas said they were scared, afraid, and mad when Andrew and Mother fought. All had witnessed Andrew’s drinking and drunken behavior. Nicolas stated that Mother and Father fought “all the time, like punching and hitting.” And Nicolas sustained a bloody nose as a result of intervening in the fight between Mother and Andrew. Nicolas

consistently stated that Andrew hit him with a belt when he tried to get into the refrigerator and pushed him down the stairs, and the court acted within its discretion in finding him credible. There was no evidence that Elisa and Laura engaged in violent altercations in the presence of Nicolas or that they struck Nicolas in the stomach with a belt and pushed him down the stairs, but there was evidence that Laura and Elisa were present during the violent altercations between Mother and Andrew.

To the extent that Mother requests us to reweigh the evidence, her argument must fail. (*In re Matthew S.*, *supra*, 201 Cal.App.3d at p. 321.)

We conclude that substantial evidence does not support the juvenile court's finding that Elisa and Laura engaged in violent altercations in the presence of Nicolas or that they struck Nicolas in the stomach with a belt and pushed him down the stairs. But substantial evidence supports the court's finding of jurisdiction under the other allegations of section 300, subdivision (b). We order the juvenile court to modify the sustained allegations to state that Laura and Elisa were present during the violent altercations between Mother and Andrew.

**D. Substantial evidence supported the juvenile court's jurisdictional findings with respect to the allegations under section 300, subdivision (b) against Father**

Father contends there was no substantial evidence supporting the juvenile court's jurisdictional findings with respect to the allegations under section 300, subdivision (b) against Father because there was no nexus between his past conduct and any physical harm to Nicolas. We disagree.

As stated, "a jurisdictional finding under section 300, subdivision (b) requires: "(1) neglectful conduct by the parent in one of the specified forms; (2) causation; and (3) 'serious physical harm or illness' to the child, or a 'substantial risk' of such harm or illness." (*In re James R.*, *supra*, 176 Cal.App.4th at p. 135.)

Although Father urges that there was no evidence that Nicolas was harmed when he lived with Mother and Nicolas or that Nicolas was aware of Father's drug use or domestic violence, we conclude that substantial evidence supported the juvenile court's finding of jurisdiction under section 300, subdivision (b). Substantial evidence showed

that Father's drug problems and his history of domestic violence with Mother placed Nicolas at substantial risk of harm. Father had a long history of drug-related arrests and had been arrested most recently for drug possession in 2010 after he had taken Nicolas to a "drug house." While Nicolas may have been too young to be fully aware of Father's drug use, he was present. Although Father claimed to be currently drug-free, he expressed concern about an agreed-upon drug test and failed to show for the test. Accordingly, we can conclude that his drug problems remain unresolved. Further, Father's parole officer described him as a "threat to the community and his family as a result of his drug use.'" And Father stalked, physically assaulted, and harassed Mother in Nicolas's presence. The evidence also showed that Father continued his pattern of controlling and abusive behavior after he learned of the dependency proceeding. Mother obtained a restraining order against Father, which he violated by sending obscenity-laden e-mails when he learned that Nicolas had been detained. Father had never completed any drug related programs, and his current girlfriend, who disavowed her relationship with Father, described him as always being angry.

We conclude substantial evidence supported the juvenile court's jurisdictional finding with respect to the allegations under section 300, subdivision (b) against Father.

#### **E. Substantial evidence supported the removal and dispositional orders**

Mother urges that substantial evidence does not support the juvenile court's order removing Nicolas from the home and the dispositional orders for parenting classes, group domestic violence counseling, and individual counseling to address case issues, including alcohol abuse, healthy relationships with men, and child protection. Father argues that substantial evidence does not support the dispositional orders for parenting classes and individual counseling to address case issues, including alcohol abuse, healthy relationships with women, and child protection. We disagree.

Section 361, subdivision (c)(1) states that the juvenile court may remove physical custody of the child from the parent where it finds by clear and convincing evidence that there is substantial danger to the physical health, safety, protection, or emotional well-being of the child or would be if the child were returned home, and there was no

reasonable means to protect the child without removal from the parent's physical custody.

We disagree with Mother that substantial evidence did not support the juvenile court's order to remove Nicolas. Nicolas had been exposed to Mother's and Andrew's domestic violence from at least December 2010, when Mother moved in with Andrew. Andrew had serious, unresolved alcohol problems that caused him to engage in verbal and physical altercations with Mother in front of Nicolas, resulting in Nicolas sustaining a bloody nose during one incident. Mother threw objects at Andrew in Nicolas's presence. Nicolas was mad and cried when Andrew and Mother fought. Yet after leaving the home because she was afraid of Andrew, acknowledging that Andrew needed treatment, and saying that she was not going back to him, Mother had moved back in with Andrew and denied that he needed to take any classes. Simply put, Mother had failed to protect Nicolas in the past and was willing to continue to expose him to a detrimental home environment.

When a minor is adjudged a dependent child of the court under section 300, section 362, subdivision (a) gives the juvenile court authority to "make any and all reasonable orders for the care, supervision, custody, conduct, maintenance, and support of the child, including medical treatment, subject to further order of the court." The court may make orders to the parents as it "deems necessary and proper to carry out the provisions of this section," including participating in a counseling or parent education program. "The program in which a parent or guardian is required to participate shall be designed to eliminate those conditions that led to the court's finding that the child is a person described by Section 300." (§ 362, subd. (c).) The court is not limited to the content of the sustained petition when it considers what disposition would be best for the child, but may rely on family history and behavior. (*In re Rodger H.* (1991) 228 Cal.App.3d 1174, 1183.)

"The juvenile court has broad discretion to decide what means will best serve the child's interest and to fashion a dispositional order accordingly. (*In re Jose M.* (1988) 206 Cal.App.3d 1098, 1103–1104.) Its determination will not be reversed absent a clear

abuse of that discretion. (*In re Eric B.* (1987) 189 Cal.App.3d 996, 1005.)” (*In re Corey A.* (1991) 227 Cal.App.3d 339, 346.)

We disagree with Mother’s argument that substantial evidence did not support the dispositional orders for individual and domestic violence counseling. For the reasons stated above, and based on evidence that Mother’s relationship with Father also involved domestic violence and substance abuse, we conclude that the court did not abuse its discretion in ordering Mother to attend individual and domestic violence counseling.

We also disagree with Father’s argument that substantial evidence does not support the dispositional orders for parenting classes, individual counseling, and a drug and alcohol program. Father had a long history of drug-related arrests and failed to show for an agreed-upon drug test. Accordingly, we can conclude that his drug problems remain unresolved. Father had a history of drug use and physically assaulting and harassing Mother in Nicolas’s presence. And Father continued his pattern of controlling and abusive behavior after he learned of the dependency proceeding. Mother obtained a restraining order against Father, which he violated by sending obscenity-laden e-mails when he learned that Nicolas had been detained. Father had never completed any drug related programs, and his current girlfriend, who disavowed her relationship with Father, described him as having a bad temper.

We conclude that substantial evidence supported the juvenile court’s removal and dispositional orders.

### **DISPOSITION**

The juvenile court is directed to modify the sustained allegations of the petition to read as follows. The first sentence of paragraph a-1 of the petition alleged under section 300, subdivision (a), and paragraph b-1 of the petition alleged under section 300, subdivision (b), shall state, in substance: “Mother and Mother’s male companion Andrew Z. have a history of engaging in violent altercations in the presence of Elisa R., Laura R., and Nicolas A.” The first sentence of paragraph b-2 of the petition alleged under section 300, subdivision (b), shall state, in substance: “In October 2011 and on prior occasions, Mother’s male companion Andrew struck Nicolas in the stomach with a

belt and pushed him down the stairs.” In all other respects, the jurisdiction and disposition orders are affirmed.

NOT TO BE PUBLISHED.

MALLANO, P. J.

We concur:

CHANEY, J.

JOHNSON, J.